

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) ( <i>if applicable</i> )	
9. Keywords	
10. Abstract	
11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> ) a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond ( <i>check one</i> ) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> ) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> ) a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> ) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission)  Name: _____ Phone: _____

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)

Signature



Date

4-6-01

Signature of NOAA Clearance Officer

Signature



Date

6/18/01

**SUPPORTING STATEMENT FOR:  
OMB CLEARANCE OF A NEW INFORMATION COLLECTION  
TO SUPPORT AN OBSERVER PROGRAM IN THE AT-SEA PROCESSING  
SECTOR OF THE PACIFIC WHITING FISHERY OFF THE  
WASHINGTON-OREGON-CALIFORNIA COAST**

**INTRODUCTION**

The U.S. groundfish fisheries off the Washington, Oregon, and California (WOC) coasts are managed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Pacific Coast Groundfish Fishery Management Plan(FMP). Regulations implementing the FMP appear at 50 CFR part, 660 Subpart G.

The Magnuson-Stevens Act at 16 U.S.C. 1853(b)(8) provides that an FMP may require that one or more observers be carried on-board a vessel of the United States engaged in fishing for species that are subject to the FMP, for the purpose of collecting data necessary for the conservation and management of the fishery. The Pacific Coast Groundfish FMP provides that all catcher/processors and at-sea processing vessels operating in the groundfish fishery may be required to accommodate on-board observers for purposes of collecting scientific data.

The WOC at-sea whiting fishery is a mid-water trawl fishery that is composed of large (256 ft-688 ft) catcher-processor and mothership vessels. The catcher-processors harvest and process catch while the motherships rely on smaller catcher vessels to deliver unsorted catch for processing. These processing vessels primarily operate in the Alaskan pollock (*Theragra chalcogramma*) fisheries, but move south to the WOC to fish for whiting between pollock seasons.

Since 1991, each domestic at-sea whiting processor has voluntarily carried one or two NMFS-trained observers. Observers provide data for estimating total landed catch and discards; monitoring the attainment of annual groundfish allocations; estimating catch rates of prohibited species; and assessing stock conditions. Under this voluntary system, vessel owners work directly with an Alaskan certified observer contracting company of their choice and enter into private negotiations for observer services.

For the most part, the at-sea whiting fishery has been satisfactorily monitored as a voluntary program. However, NMFS's ability to assure the integrity and availability of observer data in the future and to maintain safe working conditions for observers is constrained by the lack of regulations. Creating a regulatory structure for managing observer performance and assuring that participating vessels provide the basic amenities necessary for an observer to perform their required duties is expected to maintain data quality and provide for observer safety over time.

Currently, there are no regulatory requirements for whiting observers pertaining to observer certification, responsibilities or prohibited behaviors, nor are there any rules defining actions such as probation, suspension, or decertification that NMFS may take to discipline problem individuals. Certification requirements encourage data integrity by insuring that observers

understand sampling protocols that have been established to meet management objectives. To maintain certification, observers are expected to satisfactorily perform the defined duties and abide by program policies regarding conduct, data confidentiality, and conflict of interest. Although poor performance has not been a wide-scale problem, in small fleets such as the at-sea catcher-processor and mothership sectors of the whiting fishery, a single observer's data collection represents a substantial portion of the data available to manage the fishery. Poor quality data may therefore have a strong influence on fleetwide estimates of total catch by species.

To maintain a source of quality data for management of the whiting fishery, NMFS believes it is necessary to establish certification and decertification requirements for observers; to define the responsibilities of observers and processing vessels, and to require all processing vessels over 125' in length to carry two NMFS-certified observers while participating in the groundfish fishery.

The proposed rule for this program includes provisions for suspending and decertifying observers who do not meet performance standards or violate the standards or behavior. Notices of suspension and/or decertification will be issued by NMFS prior to a final determination. Within 30 days of receipt of a suspension or decertification notice, observers are afforded the opportunity to submit documentary evidence or petition for review of a suspension or decertification decision. Observers may submit additional evidence that was previously unavailable, and in some instances the observers may appear in person or present witnesses.

Although the proposed rule does not contain requirements specific to the observer contracting companies, these businesses do voluntarily submit the following information: training/briefing registration lists, notification of physical examinations, lists of projected observer assignments, weekly logistics reports, contracts, debriefing registration materials, and reports on observer harassment, safety or performance concerns.

## **JUSTIFICATION**

### **1. Explain the circumstances that make the collection of information necessary.**

Data collected by whiting observers are used by NMFS to estimate total landed catch and discards, monitor the attainment of annual groundfish allocations, estimate catch rates of prohibited species, and as a component in stock assessments. These data are necessary to comply with the Magnuson-Stevens Act requirements to prevent overfishing. In addition, the terms and conditions of the section 7 Endangered Species Act (ESA) consultation on the Pacific Coast groundfish fishery requires 100% observer coverage to account for incidental take of ESA listed salmon.

The proposed regulations define certification, observer responsibilities and prohibited behaviors, it also establishes probation, suspension, and decertification measures that NMFS may take to discipline problem individuals. The process provides NMFS with a tool to ascertain if observers are fulfilling their responsibilities and duties as prescribed by NMFS.

Information submitted by observer contacting companies is used to efficiently and effectively deploy well-qualified and trained fisheries observers to monitor the Pacific whiting fishery.

**2. Explain how, by whom, how frequently, and for what purpose the information is to be used.**

The appeals process provides observers with a way to submit evidence and to argue in opposition to a suspension or decertification notice. Observers voluntarily submit information for an appeal. Not all individuals are expected to respond. It is anticipated that a maximum of two observers per year will submit responses within 30 day of being notified that they are suspended or decertified.

Information voluntarily submitted by the contracting companies will be used as follows:

Training/briefing Registration. Information such as the person's name, sex, and date of birth is used to identify individuals in the NMFS observer database. Copies of resumes and transcripts allow NMFS to verify that first-time applicants meet the observer educational qualification standards. In general, registration information is needed for efficient operation of group instruction.

Notification of Observer's Physical Examination. Physical examinations are necessary because working aboard vessels or in processors is a dangerous occupation. An individual must be physically fit with no safety-endangering conditions. Notification of the physical examination allows NMFS to verify that all observers meet standards in the program.

Projected Observer Assignments. This information is used by the training or briefing instructor to adapt classroom instruction to meet the specific needs of the individual(s) in the training or briefing class. It is also used by the instructor when giving "special project" assignments to students.

Observer Weekly Deployment/logistics Reports. This information is used for routine record keeping in the NMFS observer database. Accurate and timely observer deployment information is important for fisheries management. Knowing where observers are at all times is also important should emergencies arise while an observer is deployed at sea.

Observer Debriefing Registration. This information allows for an efficient and effective debriefing process of an observer with NMFS personnel through a one-on-one interview.

Reports of Observer Harassment, Observer Safety Concerns, or Observer Performance Problems. Review of these reports provides NMFS with an effective tool to monitor and enforce standards of conduct of observers and to identify problems on vessels that may compromise the observers health and well being.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology, and the basis for the decision for adopting this means of collection; describe any consideration of the use of improved technology to reduce the burden on the public.**

No improved information technology has been identified as a practical means for reducing the burden on the public. The appeals process and submission of documentary evidence or petitions are unique to each observer's situation and must be signed by the individual submitting the documents. A maximum of two submissions are expected annually.

The periodic reports and information submitted voluntarily by observer contractors require extractions of data from existing database systems. These reports are then sent by fax to NMFS. A system that would allow information via the internet is being considered.

**4. Describe efforts to identify duplication with other collections which may be gathering the same or similar information, and show specifically why any similar information already available cannot be used or modified for use for the purposes) described in 2.**

Information collections provided voluntarily by observer contractors in the whiting fishery are similar to collections required by regulation in the federal groundfish fishery off Alaska. The collections of information for observers in the Alaska fisheries have been approved under OMB #0648-0318. The whiting observer program is currently administered by the Alaska fishery Science Center's North Pacific Groundfish Observer Program, but will begin transferring to the Northwest fishery Science Center in 2001. Because the contracting companies that provide observers for the whiting fishery are certified to provide observers for the Alaska groundfish fishery, the information collections are provided in the same manner as is done for observers deployed in Alaska. If an individual observer has been deployed in the Alaska groundfish fishery prior to the whiting fishery, information such as the notification of the observer's physical examination, and portions of the training/briefing registration materials are already available to NMFS and do not need to be resubmitted for the whiting fishery.

The documentary evidence or petitions from observers that have been issued notices of suspension or decertification will be unique to the individual observer and their performance in the whiting fishery. There is no overlap with their performance while deployed as an observer in Alaska. Therefore, there is no duplication with the regulations at 50 CFR 679.50 which pertain only to an observer's performance as an observer in the Alaska groundfish fishery.

**5. If the collection of information will have a significant impact on small entities such as small businesses, organizations, or government bodies, describe the methods used to minimize burden on these entities.**

The collection of information is not expected to have a significant impact on small entities such as small businesses, organizations, or government bodies.

**6. Describe the consequences to Federal program or policy activities if the collection would not be conducted or would be conducted less frequently.**

The information is required for the efficient operation of an observer program and must be submitted in the time frames requested. Collecting this information less frequently would jeopardize the goals and objectives of the observer program and the effective management of the west coast groundfish fishery.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

Other than the weekly reports and the reports of problems which are needed frequently for management of the program, there are no special circumstances that would require information collection to be conducted in a manner inconsistent with OMB Guidelines.

**8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions, the amount of burden to be imposed and ways to minimize the burden.**

A *Federal Register* notice of proposed rulemaking will be published that solicits advance public comment on the collection.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payment or gifts to respondents are provided under this collection.

**10. Describe any assurance of confidentiality provided to respondent and the basis for the assurance in statute, regulation, or agency policy.**

Because the information collected is from commercial operations, the Privacy Act does not apply. The information collected is confidential under section 402(b) of the Magnuson Act (16 U.S.C. 1801 *et seq.*). All data submitted are treated in accordance with NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

**11. Collection of information of a private and sensitive nature.**

This collection of information does not include any sensitive information.



**12. Estimates of annualized costs to respondents. Provide an estimate in hours of the burden of the collection of information.**

Detailed estimates are presented below in tables 1-2.

***Table 1. APPEALS PROCESS FOR SUSPENSION AND DECERTIFICATION***

Number of respondents (30 observer x 5%= 2).....	2
Total number of responses	
2 X 0.05 decertification rate.....	2 responses
Average time requirement per response .....	4 hours
Total annual response time	
4 hours x 2 responses.. ..	8 hours
Cost per hour in dollars.....	\$30
Annual cost for reports	
8 hours x \$30.....	\$240
Mailing costs \$1.00/response x 2.....	\$2
Total costs.....	\$242
Annual cost per observer	
\$242/30.....	\$8

**Table 2. VOLUNTARY CERTIFIED OBSERVER CONTRACTORS REPORTING**

Number of respondents (contractors).....	4
Number of observers deployed annually.....	30
<b>Training/briefing registration</b>	
Number of annual training/briefing registrations .....	30
Time requirement for each training/briefing registration.....	7 min
Annual time for training/briefing registration (30 x 7min/60min).....	3.5 hours
Cost per hour.....	\$30/hour
Annual cost for training/briefing registration (3.5 hours x \$30/hour).....	\$105
Cost to submit report by fax (30 x \$6 per page x 2 pages).....	\$360
<b>Notification of observer physical examination</b>	
Number of notifications per year.....	30
Time requirement for each notification of observer physical examination.....	2 min
Annual time for notification (30 registrations x 2 min/60 min).....	1.0hours
Cost per hour in dollars.....	\$30/hour
Annual cost for notification examination in dollars (1.0 hours x\$30/hour).....	\$30
Annual time burden per response (2 min/60 min) .....	0.03 hours
Time requirement for each physical examination .....	2 hours
Annual time requirement for physical examinations (30 observer x ¼ year = 7.5 observers x 2 hours).....	15 hours
<i>(The number of observers is multiplied by ¼ because most submit the information for participation in the Alaska groundfish fishery)</i>	
Cost per physical exam .....	\$45
Annual costs of exams (30 observer x ¼ year = 7.5).....	\$337.5
Cost to submit report by fax (30 x \$6 per page x 1 page x ¼ year).....	\$45
<b>Projected observer assignment information</b>	
Number of observer assignments per year.....	30
Time requirement for each observer assignment.....	7 min
Annual time for observer assignments (30 assignments x 7 min/60 min) .....	3.50 hours
Cost per hour in dollars .....	\$30
Annual cost for observer assignment information (3.50 hour x \$30) .....	\$105
Cost to submit report by fax (30÷10 records per page=3 pages x \$6 per page).....	\$18
<b>Weekly deployment/logistics report</b>	
Number of deployment/logistics reports per year (30 deployments x 3 weeks/year)....	90
Time for each deployment/logistics report.....	7 min
Annual time for deployment/logistics report (90 reports x 7 min/60 min).....	10.50 hours
Cost per hour in dollars .....	\$30
Annual cost for deployment/logistics reports (10.50 hour x \$30/hour).....	\$315
Annual time burden per response (7 min/60 min) .....	0.12 hours
Cost to submit report by fax (30÷10 records per page=3 pages x \$6 per page).....	\$18
<b>Debriefing registration</b>	
Number of debriefing registrations per year .....	30
Time for each debriefing registration.....	7 min
Annual time for debriefing registration (30 debriefings x 7 min/60 min).....	3.5 hours
Cost per hour in dollars .....	\$30
Annual cost for debriefing registration (3.5 hours x \$30/hour) .....	\$105
Cost to submit report by fax (30÷10 records per page=3 pages x \$6 per page).....	\$18
<b>Reports on observer Harassment, safety, or performance concerns</b>	
Annual number of reports .....	2
Time for each report .....	2 hours
Annual time requirement for reports 4 contractors x 0.5 reports x 2 hours).....	4 hours
Cost per hour in dollars .....	\$30
Annual cost for each report in dollars (4 hours x \$30/hour).....	\$120
Cost to submit report by mail (2 reports x 1 page x \$6 per page).....	\$12
<b>Summary</b>	
Number of respondents (contractors 4 + 7.5 observers).....	11.5
Number of responses .....	212
Annual time requirement for all reports .....	41 hour
Annual costs to prepare collection (labor cost \$780 + physical exams \$338).....	\$1,118
Annual mailing or faxing costs for all reports.....	\$471

**Table 3. Summary of Burden Hours and Costs**

Record type	Annual # Responses per year	Annual # Responses per year	Total Annual hours	Annual cost to prepare collection	Method of submission	Annual Cost to submit
<i>Appeals Process for Suspension and Decertification</i>	2	2	8	\$240	mail	\$2
<i>Voluntary Certified Observer Contractors Reporting</i>	11.5	212	41	\$1,118		\$471
a) training/briefing registration	a) 4	a) 30	a) 3.5	a) \$105	a) Fax	a) \$360
b) notification of physical exam.	b)	b)	b)	b)	b)	b)
i) contractor notifies NMFS	i) 4	i) 30	i) 1	i) \$30	i) Fax	i) \$45
ii) observer's physical exam.	ii) 7.5	ii) n/a	ii) 15	ii) \$337.5	ii) n/a	ii) n/a
c) Lists of projected assignments	c) 4	c) 30	c) 3.5	c) \$105	c) Fax	c) \$18
d) weekly logistics reports	d) 4	d) 90	d) 10.5	d) \$315	d) Fax	d) \$18
e) debriefing registration	e) 4	e) 30	e) 3.5	e) \$105	e) Fax	e) \$18
f) reports on harassment, safety or performance concerns	f) 2	f) 2	f) 4	f) \$120	f) mail	f) \$12
<b>TOTALS</b>	13.5	214	49	\$1,358		\$473

**13. Provide an estimate of the total annual cost burden to the respondent or recordkeepers resulting from the collection.**

See tables 1-3.

13.a. Total capital and start-up costs: No capital or significant start-up costs are associated with this collection of information.

13.b. Total operations, maintenance, and purchases of services: No capital or significant start up costs are associated with this information collection. Additional costs associated with this collection include: costs associated with compiling the information, running reports, mailing and faxing, and physician fees. The annual costs of sending reports by fax and by mail are not expected to exceed \$475.

When observers submit information for an appeal postage costs of approximately \$1 per response or \$2 annually for all responses are expected to be incurred.

**14. Estimates of annualized cost to NMFS.**

The review of suspension or decertification appeals from observers is estimated to take NMFS staff about 1 hour per appeal. Since it is estimated that a maximum of 2 appeals will be received annually, the total burden to NMFS is expected to be 2 hours. At \$24 dollars per hour the cost to NMFS is expected to be \$48 annually.

The training, briefing and debriefing registration information, including the notice of physical examinations, is estimated to take about 20 minutes per observer to process and enter into the NMFS database. With 30 observers per year this is estimated to be about 10 hours annually. The projected observer assignments and weekly deployment/logistics reports are expected to take about 10 minutes per response to process and enter into the NMFS database. It is estimated that (30 assignment +90 deployment) 120 reports per year will be received for a total annual burden of 30 hours. The review of and response to reports of observer harassment, safety or performance concerns is estimated at 1 hour per report. With an estimate of 2 reports per year this is expected to be an annual burden of 2 hours. The total annual burden on the government for review and processing information from observer contractors is 42 hours. At \$24 dollars per hour this would be an annual cost of \$1,008.

**15. Explain reasons for changes in burden.**

This is a new collection.

**16. Collections of information planned to be published for statistical use.**

No plans exist for publishing the information collected.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain why the display is inappropriate.**

No forms would be developed by NMFS or its designated agent. The preamble of the final rule published in the Federal Register will notify the public of the expiration date for OMB approval of the information collection.

**18. Explain each exception to the certification statement.**

There are no exceptions to the certification statement in this proposed collection of information.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

**(b) DISCRETIONARY PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]\* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]\*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297